Introduced by Senator Polanco

February 23, 2001

An act to add Chapter 1.5 (commencing with Section 14025) to Division 14 of the Elections Code, relating to voting rights.

LEGISLATIVE COUNSEL'S DIGEST

SB 976, as introduced, Polanco. Elections: rights of voters.

Existing law provides for political subdivisions that encompass municipal areas of representation within the state. With respect to these municipal areas, public officials are generally elected by all of the voters of the political subdivision (at-large) or from districts formed within the political subdivision (district-based).

Existing law generally allows the voters of the entire political subdivision to determine whether the elected public officials are elected by divisions or by the entire political subdivision.

This bill would provide that a municipal political subdivision may not be subdivided in a manner that results in a denial or abridgment of the right of a registered voter to vote on account of membership in a minority race, color or language group.

This bill would provide that a violation of its provisions shall be established if it is shown that racially polarized voting, as defined, occurs in elections for governing board members of a municipal political subdivision. It would provide that an intent to discriminate against a protected class, as defined, is not required to establish a violation of this bill.

This bill would authorize a court to impose appropriate remedies, including district-based elections, and to award a prevailing nonstate or nonlocal government plaintiff party reasonable attorney's fees consistent with specified case law as part of the costs.

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Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 1.5 (commencing with Section 14025) is added to Division 14 of the Elections Code, to read:

Chapter 1.5. Rights of Voters

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14025. This act shall be known and may be cited as the California Voting Rights Act of 2001.

14026. As used in this chapter:

- (a) "At-large method of election" means any method of electing members to the governing body of a municipal political subdivision in which the voters of the entire jurisdiction elect the members of the governing body, and does not include any method of district-based elections.
- (b) "District-based election" means a method of electing members to the governing body of a municipal political subdivision in which the candidate must reside within an election district that is a divisible part of the municipal political subdivision and is elected only by voters residing within that election district.
- (c) "Minority language group" means persons who are American Indian, Asian American, Alaskan Native, or of Spanish heritage.
- (d) "Municipal political subdivision" means a geographic area of representation created for the provision of municipal government services, including, but not limited to, a city, a school district, a community college district, or other local district.
- (e) "Protected class" means a class of voters who are members of a minority race, color or language group.
- (f) "Racially polarized voting" means voting in which there is a consistent difference in the way voters of an identifiable class based on a minority race, color or language group vote and the way the rest of the electorate vote in a municipal political subdivision.
- 14027. A municipal political subdivision may not be subdivided in a manner that results in a denial or abridgment of the right of any registered voter to vote on account of membership in a minority race, color or language group.

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14028. (a) A violation of Section 14027 is established if it is shown that racially polarized voting occurs in elections for members of the governing body of a municipal political subdivision.

- (b) The occurrence of racially polarized voting shall be determined from examining results of elections in which candidates are members of a protected class. One circumstance that may be considered is the extent to which candidates who are members of a protected class have been elected to the governing body of a municipal political subdivision that is the subject of an action based upon Section 14027.
- (c) The fact that members of a protected class are not geographically compact or concentrated may not preclude a finding of racially polarized voting, but may be a factor in determining an appropriate remedy.
- (d) Proof of an intent on the part of the voters or elected officials to discriminate against a protected class is not required.
- 14029. Upon a finding of a violation of Section 14027, the court shall implement appropriate remedies, including the imposition of district-based elections in place of at-large districts, that are tailored to remedy the violation.
- 14030. In any action to enforce Section 14027, the court shall allow the prevailing plaintiff party, other than the state or political subdivision thereof, a reasonable attorney's fee consistent with the standards established in Serrano v. Priest (1977) 20 Cal.3d 25, at pages 48 and 49, as part of the costs. Prevailing plaintiff parties, other than the state or political subdivision thereof, shall recover their expert witness fees and expenses as part of the costs.